

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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WILLIAM E. PAPPAS,	:	CASE NO. 1:04 CV 01641
	:	
Plaintiff	:	
	:	
-vs-	:	<u>MEMORANDUM OF OPINION AND</u>
	:	<u>ORDER GRANTING THE</u>
	:	<u>DEFENDANT'S UNOPPOSED</u>
ROBERT L. NASH, et al.	:	<u>MOTION TO AMEND JUDGMENT</u>
	:	<u>PURSUANT TO FED. R. CIV. P.</u>
Defendants.	:	<u>59(e).</u>
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UNITED STATES DISTRICT JUDGE LESLEY WELLS

Before the Court is defendants' unopposed motion to amend the Court's 29 September 2006 memorandum and opinion granting defendants' motion for judgment on the pleadings pursuant to Fed. R. Civ. P. 59(e). (Docket No. 26, 27). In its 29 September 2006 Order, this Court dismissed the plaintiff's 42 U.S.C. § 1983 claim with prejudice and remanded the remaining claims to state court. As those remaining claims were never before a state tribunal, but were brought before this Court as an original matter, they cannot be remanded, pursuant to 28 U.S.C. §§ 1441 to 1446. See also Musson Theatrical, Inc. v. Federal Express Corp., 89 F.3d 1244, 1254-55 (6th Cir. 1996) (observing that "when all federal claims are dismissed before trial, the balance of consideration usually will point to dismissing the state law claims, or remanding them to state court if the action was removed").

Accordingly, the Court hereby grants the defendants' unopposed motion to amend the 29 September 2006 memorandum and opinion to dismiss the remaining

claims in their entirety without prejudice. In all other respects, the Court's 29 September 2006 memorandum and opinion retains its full force and effect.

IT IS SO ORDERED.

/s/Lesley Wells
UNITED STATES DISTRICT JUDGE

Dated: 3 October 2006